

**Introduced by Senator Benoit**

February 24, 2009

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An act to amend Section 1363.09 of the Civil Code, relating to common interest developments.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 259, as introduced, Benoit. Common interest developments: elections.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Under existing law, a common interest development is managed by an association pursuant to the provisions of the governing documents of the development. Existing law imposes specified requirements with respect to elections for the board of directors of an association. Existing law provides that, upon a finding that specified election procedures, or the adoption of and adherence to certain rules, were not followed, a court may void any results of the election.

This bill would provide that, if a court voids any results of an election for one or more board members under the above provisions, the court shall not invalidate a decision of the board that was reached after the board was seated pursuant to that election unless the court finds that the action of the board was contrary to law or the governing documents.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1363.09 of the Civil Code is amended  
2     to read:

1     1363.09. (a) A member of an association may bring a civil  
2 action for declaratory or equitable relief for a violation of this  
3 article by an association of which he or she is a member, including,  
4 but not limited to, injunctive relief, restitution, or a combination  
5 thereof, within one year of the date the cause of action accrues.  
6 Upon a finding that the election procedures of this article, or the  
7 adoption of and adherence to rules provided by Article 4  
8 (commencing with Section 1357.100) of Chapter 2, were not  
9 followed, a court may void any results of the election. *However,*  
10 *if the court voids any results of an election for one or more board*  
11 *members, the court shall not invalidate a decision of the board*  
12 *that was reached after the board was seated pursuant to that*  
13 *election unless the court finds that action of the board was contrary*  
14 *to law or the governing documents.*

15     (b) A member who prevails in a civil action to enforce his or  
16 her rights pursuant to this article shall be entitled to reasonable  
17 attorney's fees and court costs, and the court may impose a civil  
18 penalty of up to five hundred dollars (\$500) for each violation,  
19 except that each identical violation shall be subject to only one  
20 penalty if the violation affects each member of the association  
21 equally. A prevailing association shall not recover any costs, unless  
22 the court finds the action to be frivolous, unreasonable, or without  
23 foundation.

24     (c) A cause of action under Section 1363.03 with respect to  
25 access to association resources by a candidate or member  
26 advocating a point of view, the receipt of a ballot by a member,  
27 or the counting, tabulation, or reporting of, or access to, ballots  
28 for inspection and review after tabulation may be brought in small  
29 claims court if the amount of the demand does not exceed the  
30 jurisdiction of that court.